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20583	7590	06/09/2009	EXAMINER	
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017			PAYER, HWEI SIU CHOU	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/596,304	Applicant(s) GRATSIAS ET AL.	
	Examiner HWEI-SIU C. PAYER	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

The amendment filed on 2/24/09 has been entered.

Claim Objection

Claim 27 is objected to because of the following informalities:

In claim 27, line 5, "bard" should read --bar--.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 112, second paragraph

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 15-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(1) The scope of claims 15-19 is vague because it is not clear exactly what method step of manufacturing a wet shaving system is being claimed therein. Claims 15-19 do not have a positive method step recitation for manufacturing a wet shaving system.

Claim Rejection - 35 U.S.C. 102(b)

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by King et al. (U.S. Patent No. 6,167,625).

King et al. discloses a wet shaving system (Fig.2) comprising at least one blade (12/14), a platform (16,18,20,22) and a guard bar (11) having two ends (38, see Fig.3) and positioned forward of the at least one blade (12/14) and parallel to the blade cutting edge (see Fig.1, not labeled), said platform (16,18,20,22) having parts molded over said ends (38) of said guard bar (11) as claimed (see Fig.1).

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al. (U.S. Patent No. 6,167,625) in view of Schachter (U.S. Patent No. 4,998,347).

The shaving system of King et al. as set forth shows substantially all the claimed limitations except the guard bar (11) is preferably formed of elastomeric material (see

column 4, line 40-41) rather than the claimed stainless steel, and cross section of the guard bar is not substantially circular.

However, it is notoriously old and well known in the art to use metal material such as “stainless steel” for a razor guard bar that has a substantially circular cross-section as evidenced by Schachter (see stainless steel guard bar “12” in Fig.1 and column 5, lines 22-25)

Thus, it would have been obvious to one skilled in the art at the time this invention was made to use a well known and commercially available material such as Schachter’s stainless steel for the guard bar of King et al. and to shape the guard bar so that it has a substantially circular cross-section as in Schachter. The modification is obvious because a person of ordinary skill has good reason to pursue the known options within his or her technical grasp.

3. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over King et al. (U.S. Patent No. 6,167,625).

The shaving system of King et al. as set forth shows substantially all the claimed limitations except the guard bar (11) is formed of elastomeric material rather than wood.

However, the claimed wood material is not patentably distinct over King et al. since applicants have not specifically pointed out the criticality of using the claimed wood material for the guard bar, but have disclosed it as an example of various materials that may be used. Further, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

4. Claims 14-19, 26, 27, 28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al. (U.S. Patent No. 6,167,625) in view of Brown, Jr. et al. (U.S. Patent Application Publication No. 2003/0208907).

King et al. discloses a process for manufacturing a wet shaving system (Fig.2) comprising at least one blade (12/14), a platform (16,18,20,22) and a guard bar (11) having two ends (38, see Fig.3) and positioned forward of the at least one blade (12/14) and parallel to the blade cutting edge (see Fig.1, not labeled). The difference between the process of King et al. and the claimed invention resides in the sequence of the method steps. Specifically, in King et al., the platform is formed first with a recess (29) in which the guard bar (11) is then insert molded to fill the recess (see column 4, lines 17-19), and the ends (38) of the guard bar (11) are molded under parts of the platform. However, the claimed method has the sequence reversed (forming the guard bar first and then molding the platform over the ends of the guard bar).

Brown, Jr. et al. teaches performing a part of a shaving system (in this case, a blade) first and then insert molding a platform of the shaving system over ends of such part (see the abstract and paragraphs [0009] and [0051]-[0060]).

Therefore, to reverse the sequence of the method steps of King et al. so that the guard bar is formed first before the platform is molded over ends of the guard bar would have been obvious to one skilled in the art because a person of ordinary skill has good reason to pursue the known options within his or her technical grasp.

The structural limitations as in claims 15-19 and 27 have been carefully considered but are deemed not to import any method step on the process of manufacturing a wet shaving system and accordingly cannot serve to distinguish.

Regarding the product-by-process claim 26, the wet shaving system of King et al. as set forth appears to be identical to the claimed product. The patentability of a product does not depend on its method of production. See MPEP 2113.

Regarding claims 28 and 31, while King et al. show the step of providing the guard bar (11) comprises providing an elastomeric (see column 4, line 40-41) rather than a wood guard bar.

However, the claimed wood material is not patentably distinct over King et al. since applicants have not specifically pointed out the criticality of using the claimed wood material for the guard bar, but have disclosed it as an example of various materials that may be used. Further, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

5. Claims 28-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al. (U.S. Patent No. 6,167,625) in view of Brown, Jr. et al. (U.S. Patent Application Publication No. 2003/0208907) as applied to claim 14 above, and further in view of Schachter (U.S. Patent No. 4,998,347).

The shaving system of King et al. as modified above shows substantially all the claimed limitations except the step of providing the guard bar (11) comprises providing

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an elastomeric (see column 4, line 40-41) rather than a stainless steel guard bar, and the cross section of the guard bar is not substantially circular.

However, it is notoriously old and well known in the art to use metal material such as “stainless steel” for a razor guard bar that has a substantially circular cross-section as evidenced by Schachter (see stainless steel guard bar “12” in Fig.1 and column 5, lines 22-25)

Thus, it would have been obvious to one skilled in the art at the time this invention was made to further modify King et al. by providing a commercially available material such as Schachter’s stainless steel for the elastomeric guard bar of King et al. Also, it would have been obvious to shape the guard bar so that it has a substantially circular cross-section as in Schachter. The modification is obvious because a person of ordinary skill has good reason to pursue the known options within his or her technical grasp.

Remarks

Applicant's arguments filed 2/24/09 have been fully considered but they are not persuasive.

Applicants argue, at page 5 of the amendment, claims 15-19 are proper dependent claims and do recite positive method steps for manufacturing a wet shaving system. Examiner agrees claims 15-19 proper dependent claim. However, claims 15-19 fail to positively recite method steps of manufacturing a wet shaving system.

Specifically, claims 15-19 are product claims and not method claims. They do not further limit the method of manufacturing a wet shaving system.

In response to Applicants' argument King fails to identify any elements in the figures as being part of the platform. Examiner disagrees. King's elements (16,18,20,22) shown in Fig.2 are deemed to be the claimed "platform" since applicants fail to particularly claim the structure of the platform that is distinguishable over that shown in King. Applicants further argue there is not disclosure or suggestion in King about what the end portions, as identified in annotated Fig.1 (see page 7 of the amendment), are made from. In response, King clearly states the razor cartridge 10 is "insert molded" (see column 3, lines 53-55) by injecting plastic in the forming mold (see column 4, line 5-9). Thus, the end portions as applicants annotate at page 7 of the amendment are formed of "plastic" as there is no mention otherwise.

Applicants also argue, at page 8 of the amendment, the skin contacting-element 11 in King chemically bonds with the surfaces forming the recess 29 in the guard 18, there would be no need for King to mold portions of its platform over the ends of the skin-contacting element 11. In response, Fig.3 of King clearly shows the two ends (38) of the guard bar (11) having the platform molded thereon (note Fig.1 with the two ends of the guard bar 11 molded there under parts of the platform). In other words, King's parts of the platform are over molded onto the ends (38) of the guard bar (11).

Applicants' arguments with respect to claims 21-25 appear to restate claim 20 being patentably over King. As stated above, King shows a wet shaving system as claimed. Therefore, claims 21-25 stand rejected as set forth in the above 103 rejection.

In response to Applicants' arguments regarding claims 14-19, 26 and 27, the same response above applies. The difference between the process of King and the claimed invention resides in the sequence of the method steps. Specifically, in King, the platform is formed first with a recess (29) in which the guard bar (11) is then insert molded to fill the recess (see column 4, lines 17-19), and the ends (38) of the guard bar (11) are molded under parts of the platform. However, the claimed method has the sequence reversed (forming the guard bar first and then molding the platform over the ends of the guard bar).

Brown, Jr. et al. teaches performing a part of a shaving system (in this case, a blade) first and then insert molding a platform of the shaving system over ends of such part (see the abstract and paragraphs [0009] and [0051]-[0060]).

Therefore, to reverse the sequence of the method steps of King et al. so that the guard bar is formed first before the platform is molded over ends of the guard bar would have been obvious to one skilled in the art because a person of ordinary skill has good reason to pursue the known options within his or her technical grasp.

Action Made Final

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H Payer
June 5, 2009

/Hwei-Siu C. Payer/
Primary Examiner, Art Unit 3724